..

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

F.A.O. No. 1085 of 1987.
Date of Decision : Oct. 24, 2006

Sita Ram and another

... Appellants

Versus

Smt. Sarbati and others.

.. Respondents

CORAM : Hon`ble Mr. Justice Pritam Pal.

Present : Shri S.S.Aulakh, Advocate,
for the appellants.

Shri Namit Gautam, Advocate,
for the respondent-claimants.

PRITAM PAL, J.

By this common judgment I will dispose of F.A.O. No. 1085 of 1987 filed by driver-cum-owner and insurer - The Oriental Insurance Company Limited, as well as Cross Objections No. 34-CII of 1988 filed by the respondent-claimants. In F.A.O. No. 1085 of 1987, the challenge has been made to the quantum of compensation, awarded to the respondent-claimants, who are L.Rs. of Prithvi Singh (since deceased).

In nutshell, suffice it to say that on 29.7.1986, Prithvi Singh, who was serving as an Inspector with the Haryana Roadways, after checking bus bearing registration no. HRX-1648, got-down from its rear-

..

door, on G.T. road, near Village Rai Pur Roran, District Karnal. As soon as he got-down from the said bus, a truck bearing registration No. HPA 1650, driven by Sita Ram, appellant No.1, came from the behind and crushed him there and then, at the spot.

Learned Motor Accident Claims Tribunal, Karnal (hereinafter referred to as "the Tribunal"), after recording evidence and hearing learned counsel for the parties, assessed the monthly loss caused to the claimants, at Rs.990/- after imposing a cut of 1/4th in the monthly income of the deceased towards his own expenses. Ultimately, the annual dependency of the claimants was assessed at Rs.11,880/-. Thereafter, a multiplier of 14 was applied and in the result, a total compensation of Rs. 1,66,320/- was awarded against the appellants. Upon the said amount, an interest at the rate of 12% per annum was also awarded to the claimants, by the learned Tribunal, from the date of petition, till actual realization.

This is how feeling aggrieved, the appellants have come up in this appeal.

The only point of argument, raised on behalf of the appellants, in this appeal is that the learned Tribunal should have imposed a cut of 1/3rd instead of 1/4th , on account of personal expenses, incurred upon the deceased, while assessing the annual dependency of the claimants.

However, this contention has been repelled by learned counsel for the respondent-claimants and at the same time, an objection has also been raised, that a joint appeal by the Insurance Company with the owner and driver of the offending vehicle, as filed by the appellants in this case, is also not maintainable. In support of his this contention, reliance has been

..

placed on the following catena of judgments :-

* **Chinnama George and others v. N.K.Raju and another**

  (2000) 4 Supreme Court Cases 130

* **National Insurance Company Ltd. and another v. Balbir Kaur and others.**

  2002(2) PLR 750

* **New India Assurance Company Ltd. v. Partap Singh**

  2001 (1) R.C.R. (Civil) 702.

I have given my thoughtful consideration to the above submissions put-forth on behalf of the parties and find no force in the above plea, raised on behalf of the appellants, inasmuch as, here in the instant case, there are nine claimants, who were dependent upon the deceased, at the time of accident. The deceased was about 40 years of age and was serving as an Inspector in the Haryana Roadways. He was drawing monthly salary of Rs. 1185.60 ps. at the time of accident. A reasonable multiplier of 14 has been applied, while awarding compensation to the claimants.

Thus, keeping in view the number of dependents of the deceased, the cut of 1/4th imposed on the monthly income of the deceased, towards his own maintenance, is quite reasonable and justified. Moreover, as observed by their Lordships in the above cited rulings, the present joint appeal filed by the Insurer with the driver/owner of the offending vehicle, is not maintainable. Not only this, it is also settled law that the insurer has no locus-standi to file the appeal, in view of Section 149(2) of the Motor

..

Vehicles Act, 1988, which gives a limited right to the Insurance Company to file an appeal on specified grounds. So far as Cross Objections No. 34-CII of 1988 filed by the claimants are concerned, nothing has been brought on the file, which could call for interference in the quantum of compensation, awarded by the learned Tribunal. Even otherwise, compensation awarded by the Tribunal is quite reasonable and justified.

In view of my foregoing discussion, this appeal as well as Cross-Objections fail and the same are hereby dismissed. No costs.

[PRITAM PAL]
JUDGE

October 24, 2006
som